

REMARKS

Claims 1-30, and 32-37 are pending. Claims 7, 8, 13, 14, 18-20, 27, 28, and 36 are withdrawn. Claim 31 is cancelled. Claims 1-6, 9-12, 15-17, 21-26, 29-30, 32-35 and 37 are presently under examination. Claims 1, 2, 11, 16, 22, 25 and 33 are amended. The amendments find support in the specification and claims as originally filed, and do not introduce new matter.

Amendment and cancellation of the claims herein are not to be construed as an acquiescence to any of the rejections/objections made in the instant Office Action or in any previous Office Action, and were done solely to expedite prosecution of the application. Applicants hereby reserve the right to pursue the claims as originally filed, or substantially similar claims in one or more subsequent patent applications. Applicants submit that no new matter has been added as a result of this amendment.

Claim Objections

In response to the objection to claim 2, claim 2 had been amended to end with a period.

Rejection of Claims 1-6, 9-12, 15-17, 21-26, 29-30, 32-35 and 37 Under 35 U.S.C. §112, Second Paragraph

Claims 1-6, 9-12, 15-17, 21-26, 29-30, 32-35, and 37 are rejected under 35 U.S.C. §112, Second Paragraph for alleged indefiniteness.

The Office Action states at page 3 that claims 1 and 2 are rejected for the recitation of "providing a population of transgenic insects comprising a human neurodegenerative disease gene," because "it is unclear whether each member of the population comprises the human neurodegenerative disease gene or the population as while [sic] comprises the human neurodegenerative disease gene, i.e. some members may not comprise the human gene."

The Office Action also states at page 4 that amended claim 1 is unclear in its recitation of "identifying a difference between said trait before administration of said test agent and after administration of said at least one test agent." Particularly, "[i]t is unclear whether a difference is intended for 'said test agent' and 'said at lest [sic] one test agent.'"

Applicants disagree and traverse the rejection.

While Applicants believe that the instant claims are clear on their face, the claims have been nonetheless amended herein to expedite prosecution. The amended claims should be sufficient to overcome the rejection outlined in the Office Action.

In view of the foregoing, Applicants believe that the rejection under §112, second paragraph should be overcome and request that the rejection be reconsidered and withdrawn.

Rejection of Claims 1-6, 9-12, 15-17, 21-26, 29-30, 32-35, and 37 Under 35 U.S.C. §102(e)

Claims 1-6, 9-12, 15-17, 21-26, 29-30, 32-35, and 37 are rejected under §102(e) in view of Botas et al. (U.S. 2004/0177388) in view of Roberts et al. (Journal of Leukocyte Biology, Vol. 68, pages 627-632, Nov. 2000).

The Office Action expressly acknowledges that the applied reference has a common inventor with the present application and that there is an opportunity to overcome the rejection by a showing under 37 C.F.R. §1.132 that any invention disclosed but not claimed in the applied reference was derived from the inventor(s) of this application and thus is not an invention "by another" (Office Action page 5).

Accordingly, without acquiescing to the grounds for the rejection, but rather to expedite allowance of the application, the present inventors have duly executed a Declaration under Rule 1.132 (filed concurrently herewith) in order to attest to the fact that if, and to the extent that any of the subject matter claimed in the instant application was disclosed but not claimed in US 2004/0177388, that subject matter was invented

by the present inventors. The declarants also confirm that the instantly claimed invention (as recited in present claims 1-37) was not invented by Pedro Fernandez-Funez, an inventor or co-inventor of one or more claims of US 2004/0177388. For all of the foregoing reasons, US 2004/0177388 is not the work "of another" relative to the present application.

Once again, without acquiescing to the grounds for the rejections, they are nonetheless believed to be overcome in any case with today's Declaration. It is therefore respectfully requested that the rejections be withdrawn.

Rejections for nonstatutory obviousness-type double patenting

Applicants will address these rejections upon notification of allowable claims in the present application.

Amendment and cancellation of the claims herein are not to be construed as an acquiescence to any of the rejections/objections made in the instant Office Action or in any previous Office Action, and were done solely to expedite prosecution of the application. Applicants hereby reserve the right to pursue the claims as originally filed, or substantially similar claims in one or more subsequent patent applications.

For at least the foregoing reasons, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. Should any of the claims not be found to be in condition for allowance, the Examiner is requested to call Applicant's undersigned representative to discuss the application. Applicant thanks the Examiner in advance for this courtesy.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

Electronic signature: /Elizabeth Spar/
Elizabeth Spar

Registration No.: 45,123
EDWARDS ANGELL PALMER & DODGE
LLP

P.O. Box 55874
Boston, Massachusetts 02205
(617) 239-0575
Attorneys/Agents For Applicant